

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

DONALD BERDEAUX and CHRISTINE GRABLIIS, individually and on behalf of all others similarly situated,

Plaintiff,

v.

ONECOIN LTD.; RUJA IGNATOVA;
SEBASTIAN GREENWOOD; MARK
SCOTT; DAVID PIKE; NICOLE J.
HUESMANN; GILBERT ARMENTA; and
THE BANK OF NEW YORK MELLON,

Defendants.

C.A. No 1:19-cv-04074-VEC

Hon. Valerie E. Caproni

CLASS ACTION

PLAINTIFFS' MOTION FOR VOLUNTARY DISMISSAL WITHOUT PREJUDICE

Lead Plaintiff Donald Berdeaux and Plaintiff Christine Grablis (together, "Plaintiffs") respectfully move for voluntary dismissal without prejudice of the instant action pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure.

1. Plaintiffs initiated the above-titled action (the "Action") by filing their opening Complaint on May 7, 2019. [ECF No. 1].

2. On September 25, 2020, Plaintiffs filed their Second Amended Complaint. [ECF No. 25, the "SAC"].

3. On September 20, 2021, this Court issued an order dismissing all claims against Defendants Mark Scott, David Pike, Nicole Huesmann, and The Bank of New York Mellon. [ECF No. 216, the "Order"].

4. Following dismissal of all claims against Defendants Scott, Pike, Huesmann, and Bank of New York Mellon; the only remaining defendants are Defendants OneCoin Ltd.; Ruja

Ignatova, Sebastian Greenwood, and Gilbert Armenta -- none of whom have materially participated in this action¹, and all of whom have been defaulted. [ECF Nos. 199, 200, 201, and 209].

5. Upon information and belief, Defendant OneCoin Ltd. is a defunct entity with no attachable assets; Defendant Ignatova's whereabouts are presently unknown; and Defendants Greenwood and Armenta are both in federal custody awaiting trial and anticipated lengthy prison sentences for their involvement in OneCoin's operations and promotion.

6. Plaintiffs have concluded that the dismissal of Mark Scott, David Pike, Nicole Huesmann, and Bank of New York Mellon Corporation from this Action has rendered this litigation untenable and no longer a productive use of judicial resources, due largely to the fact that the remaining defendants all appear to be essentially judgment proof, in that it will be extremely difficult or impossible to successfully enforce a judgment against any of the remaining defendants due to their imprisonment and/or lack of recoverable assets. Accordingly, Plaintiffs respectfully move for an order, in the form attached herewith, voluntarily dismissing without prejudice the instant action pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure.

7. Plaintiffs represent that no compensation in any form has passed directly or indirectly from anyone to Plaintiffs or their attorneys in relation to this request for dismissal, and no promise to give any such compensation has been made.

8. As no class has yet been certified, no payment or monetary inducement has been offered or promised to Plaintiffs or Plaintiffs' counsel, and voluntary dismissal without prejudice at this stage does not bind any putative/absent class claimant other than the named Plaintiffs,

¹ Although Defendant Armenta appeared through counsel to request an extension of time to respond to the claims against him [ECF No. 149] -- which the Court granted [ECF No. 150] -- the only filing his counsel made was a Motion to Withdraw from representing Mr. Armenta [ECF Nos. 175, 176]. No other filings were made by or for Mr. Armenta.

Plaintiffs believe it is advisable and is in the best interest of judicial efficiency to voluntarily dismiss the Action without prejudice at this time.

WHEREFORE, Lead Plaintiff Donald Berdeaux and Plaintiff Christine Grablis respectfully move for voluntary dismissal without prejudice of the instant action pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, with each party is to bear its own costs, expenses, and attorneys' fees.

Dated: October 7, 2021

Respectfully submitted,

LEVI & KORSINSKY, LLP

s/ Donald J. Enright

LEVI & KORSINSKY, LLP

Donald J. Enright (admitted *pro hac vice*)

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*Attorneys for Lead Plaintiff Donald
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Lead Counsel for the Class*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was electronically filed with the Clerk of Court of this 7th day of October 2021 by using the CM/ECF system and that a true and correct copy will be served via electronic mail to: All Parties and Counsel of Record.

/s/ Donald J. Enright

DONALD J. ENRIGHT